

§ 30.619

§ 30.619 Do all the parties to this type of tort suit have to take these actions?

The type of tort suits described in § 30.615 may be filed by more than one individual, each with a different cause of action. For example, a tort suit may be filed against a beryllium vendor by both a covered Part B employee and his or her spouse, with the covered Part B employee claiming for chronic beryllium disease and the spouse claiming for loss of consortium due to the covered Part B employee's exposure to beryllium. However, since the spouse of a living covered Part B employee could not be an eligible surviving beneficiary under Part B of EEOICPA, the spouse would not have to comply with the termination requirements of §§ 30.616 through 30.618. A similar result would occur if a tort suit were filed by both the spouse of a deceased covered Part B employee and other family members (such as children of the deceased covered part B employee). In this case, the spouse would be the only eligible surviving beneficiary of the deceased covered Part B employee under Part B of the EEOICPA because the other family members could not be eligible for benefits while he or she was alive. As a result, the spouse would be the only party to the tort suit who would have to comply with the termination requirements of §§ 30.616 through 30.618.

§ 30.620 How will OWCP ascertain whether a claimant filed this type of tort suit and if he or she has been disqualified from receiving any benefits under Part B of EEOICPA?

Prior to authorizing payment on a claim under Part B of EEOICPA, OWCP will require each claimant to execute and provide an affidavit stating if he or she filed a tort suit (other than an administrative or judicial proceeding for workers' compensation) against either a beryllium vendor or an atomic weapons employer that included a claim arising out of a covered Part B employee's employment-related exposure to beryllium or radiation, and if so, the current status of such tort suit. OWCP may also require the submission of any supporting evidence necessary to con-

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firm the particulars of any affidavit provided under this section.

COORDINATION OF PART E BENEFITS WITH STATE WORKERS' COMPENSATION BENEFITS

§ 30.625 What does "coordination of benefits" mean under Part E of EEOICPA?

In general, "coordination of benefits" under Part E of the Act occurs when compensation to be received under Part E is reduced by OWCP, pursuant to section 7385s-11 of EEOICPA, to reflect certain benefits the beneficiary receives under a state workers' compensation program for the same covered illness.

§ 30.626 How will OWCP coordinate compensation payable under Part E of EEOICPA with benefits from state workers' compensation programs?

(a) OWCP will reduce the compensation payable under Part E by the amount of benefits the claimant receives from a state workers' compensation program by reason of the same covered illness, after deducting the reasonable costs to the claimant of obtaining those benefits.

(b) To determine the amount of any reduction of EEOICPA compensation, OWCP shall require the covered Part E employee or each eligible surviving beneficiary filing a claim under Part E to execute and provide an affidavit reporting the amount of any benefit received pursuant to a claim filed in a state workers' compensation program for the same covered illness.

(c) If a covered Part E employee or a survivor of such employee receives benefits through a state workers' compensation program pursuant to a claim for the same covered illness, OWCP shall reduce a portion of the dollar amount of such state workers' benefit from the compensation payable under Part E. OWCP will calculate the net amount of the state workers' compensation benefit amount to be subtracted from the compensation payment under Part E in the following manner:

(1) OWCP will first determine the dollar value of the benefits received by that individual from a state workers'